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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,642	04/06/2001	Donald P. Gravel	STE01 P-1067	9043

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EXAMINER

THISSELL, JENNIFER I

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 06/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/827,642

Applicant(s)

GRAVEL ET AL.

Examiner

Jennifer I Thissell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 26-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 11, 12, 14, 17, 18, 23, 24 and 37-42 is/are rejected.
- 7) ☒ Claim(s) 4, 7-10, 15, 16, 19-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Varlonga ('972). Varlonga teaches a frame 19,20 that has at least one horizontal surface, a steel cover member 6 enclosing a portion of the frame, the cover member includes attachment members (elements located at the bottom and top, respectively, of the frame members, at approximate midpoint between numerals 6a and 7a in Figure 1), there is a seal 18 attached to the cover member, the seal includes a resilient flap which engages the horizontal surface of the frame, the cover member includes a horizontal flange that extends between the side edges of the cover member, the seal includes a U-shaped groove that is configured to accept the horizontal flange of the cover (Figure 1), the seal also includes at least one finger extending into the groove.

Claims 1, 14, and 37-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Omholt et al. ('573). Omholt teaches a frame including at least one substantially horizontal surface, a cover member 11 that is capable of enclosing a portion of the frame, the cover member has attachment members 21 (in Figures 2-4) that can connect the cover member to the frame, and there is a seal 22 attached to the cover member, the seal including a resilient flap

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(side portion that springs into place after being pinched) that engages a horizontal surface of the frame. The attachment members are removable from the cover, the cover is removable from the frame, the cover includes a vertical flange 61, and the attachment members are connected to the vertical flange. The substantially horizontal extending member is in a substantially vertical direction.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mecklenburg ('944) in view of Prewer ('855). Mecklenburg teaches a cover as stated above, but does not state that it is wood. Prewer teaches that it is known to provide a wall system with a panel 11,12,13 that is made of wood. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide wall panels/covers that are made of various known materials, including wood, since it is within the general skill of a worker in the art to select a known material based on the suitability for the intended use as a matter of obvious design choice. Wood panels may provide a system with a thicker material that would insulate (sound and temperature) extremely well.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mecozzi ('899) in view of Prewer ('855). Mecozzi teaches a system with a sheet metal cover as stated above, but does not state that the cover could have wood or tack board attached or part of the cover. Prewer teaches that it is known to provide a wall system with a panel 11,12,13 that is made of wood. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide wall panels/covers that are made of various known materials, including wood, since it is within the general skill of a worker in the art to select a known material based on the suitability for the intended use as a matter of obvious design choice. The panel could have a wood board attached and therefore part of the cover, allowing for a façade on the metal surface. Wood panels may provide a system with a thicker material that would insulate (sound and temperature) better than a metal panel alone.

Claims 1, 5, 6, 14, 17, 18, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mecozzi ('899). Mecozzi teaches a frame 92 that includes a horizontal surface, a cover member 12 that has an attachment member 100, and a seal 96 attached to the cover member, the seal including a resilient flap that engages the horizontal surface of the frame. The frame further includes a horizontal cross-member having a window (where the fastener extends through), and the attachment member is inserted into the window. The cover member includes a horizontal flange member (Figure 1)

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that extends between the side edges of the cover. There is also a second seal 73 attached to the cover member, the second seal including a resilient flap (leftmost edge of the member).

Mecozzi teaches a horizontal cross member with a window and attachment member as stated (where the fastener extends through), but does not specifically state that there is a plurality of windows with a plurality of attachment members. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a plurality of windows with a corresponding plurality of attachment members, since mere duplication of a structural element is considered routine in the art. One would be motivated to place several fasteners, and therefore windows, because this would ensure a solid connection up and down the element.

Mecozzi teaches a system with a sheet metal cover as stated above, but does not state that the cover is specifically steel. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use steel as the cover, since steel is a commonly utilized sheet metal material in the art. Steel is strong, yet it can be formed or shaped as needed for a wall panel.

Allowable Subject Matter

Claims 4, 7-10, 15, 16, and 19-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent

form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed April 3, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that Varlonga does not disclose a seal attached to a cover member or a seal that includes a resilient flap engaging a surface of the frame, the Examiner would like to refer to the rejection above that states that the seal member is referred to as reference numeral 18. It can clearly be seen in Figure 1 that the seal 18 is attached to the cover member 6 and that the seal member 18 has a resilient flap that engages a horizontal surface of the frame 19.

In response to applicant's argument that Varlonga does not disclose a cover member with a substantially horizontal flange or seal that includes a U-shaped groove, it can be seen in Figure 1 that the seal 18 does in fact have a U-shaped groove at its left side where it accepts or receives the horizontal flange of the cover 6. The flange of the cover 6 is the portion that curves around the top and extends down and outwardly, and it is considered horizontal because it does in fact extend horizontally along the top of the cover, as well as the upper portion of the flange existing in the horizontal direction.

In response to applicant's argument that Mecozzi does not disclose a seal attached to the panel, or a seal with a resilient flap that engages a substantially horizontal surface of the panel, it can be seen in Figure 1 that the seal 96 is attached to the panel 12 at location 54, and it can also be seen that the seal 96 has a resilient flap located at the upper extension portion of the seal. The surface of the panel is horizontal because when in the vertical position, it extends horizontally from the outer (upper in the Figure) edge to the inner (lower in the Figure) edge.

In response to applicant's argument that Mecklenburg does not disclose a seal attached to a cover member or that the seal is connected to the panel, it can be seen in Figure 4 that seal 11 is connected to the cover member 5.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I Thissell whose telephone number is (703) 306-5750. The examiner can normally be reached Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (703) 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JIT

June 9, 2003



Carl D. Friedman
Supervisory Patent Examiner
Group 3600